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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/571,741	10/19/2006	David R. Forester	3262-01	1220

26645 7590 11/18/2008

THE LUBRIZOL CORPORATION

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EXAMINER

HINES, LATOSHIA D

ART UNIT

PAPER NUMBER

1797

MAIL DATE

DELIVERY MODE

11/18/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/571,741

Applicant(s)

FORESTER ET AL.

Examiner

LATOSHA HINES

Art Unit

1797

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date 03/13/2006
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This is the initial Office action based on the 10/571741 application filed on March 13, 2006.
2. Claims 1-17 are pending and have been fully considered.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over LAL et al. (EP 0626442).

With respect to claims 1-17 LAL et al. discloses a major amount of a fatty carboxylic acid ester composition from the transesterification of at least one naturally occurring triglyceride (rapeseed oil) (page 4 lines 10-15) and a pour point depressant. The alcohol utilized in forming the transesterified esters are an aliphatic group that contains from 1 to about 24 carbon atoms such as methyl alcohol (page 4 lines 32-36). The pour depressant comprises one or more esterified copolymer of an alpha-olefin or styrene and an alpha, beta-unsaturated monocarboxylic or dicarboxylic acid or maleic anhydride, wherein the copolymer is esterified with a mixture of a relatively high molecular weight alcohol (at least 8 carbon atoms) and a relatively low molecular weight alcohol (no more than 7 carbon atoms). The ratio of the high molecular weight alcohol to low molecular

weight alcohol is within the range of from 2:1 to 9:1 (page 7, line 1- page 8, line 54). The discovery of an optimum value of a known result effective variable, without producing any new or unexpected results, is within the ambit of a person of ordinary skill in the art. See *In re Boesch*, 205 USPQ 215 (CCPA 1980) (See MPEP § 2144). The pour point depressant is an ester of a carboxy-containing interpolymer, having a reduced specific viscosity of from about 0.5 to about 2 (page 7 lines 3-5). The interpolymerizable comonomers include methyl methacrylate (page 8 lines 38-40). The carbonyl polyamino groups include those derived from polyamino compounds having one primary or secondary amino group (page 8 lines 4-5). The fuel composition comprises a major amount of liquid fuel wherein the fuel comprises a petroleum distillate and diesel fuel (page 2 lines 6-10 and claim 14).

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LATOSHA HINES whose telephone number is 571-270-5551. The examiner can normally be reached on Monday thru Thursday from 8 a.m. to 5 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Caldarola can be reached on 571-272-1444. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ellen M McAvoy/

Primary Examiner, Art Unit 1797

/LATOSHA HINES/
Examiner, Art Unit 1797